

**REMARKS**

Claims 1-2 are pending in the application. Claim 1 is herein amended. No new matter has been presented.

**Objection**

**In the Advisory Action, the Amendment filed November 1, 2011 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure.**

The Examiner alleged as follows:

Applicant's deletion of "total" in line 12 of claim 1 adds new matter to claim 1 since the specification appears to provide support for only the definition of Z where Z is the total length of the multilayered molten resin mass along its central axis. See, for example, Fig. 1, which clearly shows what Z is considered to be. Applicant's deletion of "total" opens up the length of Z to any "length along the central axis of the multilayered molten resin mass", but the only length that is supported in the specification as originally filed is the total length of the multilayered molten resin mass along its central axis.

(Advisory Action, Continuation Sheet, second paragraph).

Accordingly, "total" is herein restored in line 12 of claim 1. Therefore, the objection is overcome.

**Rejections under 35 USC §102(b)**

**Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Shimizu et al. (U.S. Patent No. 4,816,308).**

**Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Collette et al. (U.S. Patent No. 5,759,653).**

**Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kuwabara et al. (JP 03-234604)**

The Examiner alleged as follows:

Examiner repeats the statement made in the previous Office Action mailed August 12, 2011 that: "[b]efore the preform solidifies into a preform, it is a molten resin mass in the shape of a preform (having components having the claimed structural features). Examiner further notes that Applicant has not disputed this statement in the After Final Amendment.

(Advisory Action, Continuation Sheet, fourth paragraph).

Regardless whether the preform is a molten resin mass before it solidifies into a preform, the present invention patentably distinguish over the cited references as explained below.

The Examiner also alleged as follows:

Examiner notes that Applicant has not disputed the 35 USC 102 rejection of claim 1 as being anticipated by Shimizu et al. (USPN 4,816,308) in the After-Final Amendment under the "Rejections under 35 USC 102(b)" heading.

(Advisory Action, Continuation Sheet, fifth paragraph).

It was an omission of Applicants' representative in good faith not mentioning Shimizu et al. Because the multilayered container disclosed in Shimizu et al. is also of concave shape, the same argument applies as Collette and Kuwabara.

The Examiner further alleged as follows:

Applicant argues that y in Collette et al. and Kuwabara et al. "is greater than Z" on page 5 of the After-Final Amendment.

Examiner notes that Applicant has made this argument without providing any support or explanation for why Applicant alleges that "y is greater than Z" in Collette et al. and Kuwabara et al.

Z (as it is defined in Applicant's specification, for example, in Fig. 1) is greater than y (as it is defined in Applicant's specification, for example, in Fig. 1) in Collette et al. and Kuwabara et al. As stated in the respective rejections of record, "Compare Fig. 4 and 5 of Collette et al. with Applicant's Fig. 1. Note that the second resin does not extend to the top of the resin mass shown

in Fig. 4 and 5 of Collette et al." (page 6 of Office Action mailed August 12, 2011), and "Compare figures of Kuwabara et al. with Applicant's Fig. 1 (note the top of interlayer of Kuwabara et al. on either side is curved)." (Page 7 of Office Action mailed August 12, 2011). Examiner repeats: Note that the second resin shown in Fig. 4 and 5 of Collette et al. does not extend to the top of the resin mass shown in Fig. 4 and 5 of Collette et al. Page 6 of Office Action mailed August 12, 2011.

Examiner also notes that Applicant states on page 5 of the After Final Amendment that "[t]he preforms disclosed in Collette et al., and Kuwabara et al. are of concave shape", but it is unclear how this rebuts the rejection of record of the claims of record. The claims do not require that the resin mass is not of concave shape (by arguing that the preforms in Collette et al. and Kuwabara et al. are of concave shape, it would seem that Applicant intends to imply that the claims require that the resin mass is not of concave shape, but the claims do not require this). If Applicant intends to imply something other than this, it is not clear what Applicant intends to argue, because Applicant has not explained how the fact that the preforms are of concave shape overcomes the rejections of record.

Examiner once again notes that Applicant has not presented any argument in response to the 35 USC 102 rejection of claim 1 as being anticipated by Shimizu et al. (USPN 4,816,308) in the After-Final Amendment under the "Rejections under 35 USC 102(b)" heading.

Applicant argues under the "Rejections under 35 USC 103(a)" heading that Shimizu et al. do not teach or suggest that  $Z > y > L$ , but this is only possible if Applicant considers  $Z$  to be something other than  $Z$  as it is shown in Fig. 1 of Applicant's specification.

$Z$  (as it is defined in Applicant's specification, for example, in Fig. 1) is greater than  $y$  (as it is defined in Applicant's specification, for example, in Fig. 1) in Shimizu et al. As stated in the respective rejections of record, "Compare Fig. 3 of Shimizu et al. with Applicant's Fig. 1." Page 6 of Office Action mailed August 12, 2011.

As above in regard to the 35 USC 102 rejections as being anticipated by Collette et al. and Kuwabara et al., Examiner notes that Applicant has made the argument that  $y$  is greater than  $Z$  in Shimizu et al. without providing any support or explanation for why Applicant alleges that " $y$  is greater than  $Z$ " in Shimizu et al.

(Advisory Action, Continuation Sheet, sixth to last paragraph).

Claim 1, as herein amended, recites, among other things, " $Z > y > L$ , . . . wherein  **$Z$  is a total length intersecting the central axis** of the multilayered molten resin mass,  $y$  is a length of umbrella part of the second resin."

The preforms disclosed in Shimizu et al. (see Figs. 3 and 4), Collette et al. (see Figs. 4 and 5), and Kuwabara et al. (see Figs. 3-A to 3-E) are all of concave shape or of cup shape. Therefore, Z corresponds to the thickness of the bottom portion of the cup shape. Therefore, **y is greater than Z**. Thus, “ $Z > y > L$ ” is not satisfied in Shimizu et al., Collette et al., and Kuwabara et al. Therefore, Shimizu et al., Collette et al., and Kuwabara et al., do not teach or suggest “ $Z > y > L$ , . . . wherein **Z is a total length intersecting the central axis** of the multilayered molten resin mass, y is a length of umbrella part of the second resin,” as recited in amended claim 1. Also there is no reason for a person of ordinary skill in the art to modify the teachings of Collette et al., and Kuwabara et al. to arrive at the present invention as recited in claim 1.

For at least these reasons, claim 1 patentably distinguishes over Shimizu et al., Collette et al., and Kuwabara et al. Claim 2, depending from claim 1, also patentably distinguishes over Collette et al., and Kuwabara et al. for at least the same reasons.

### **Rejections under 35 USC §103(a)**

**Claim 2 is rejected under 35 U.S.C. 103(a) as being obvious over Shimizu et al. (U.S. Patent No. 4,816,308).**

Claim 2, depending from claim 1. Shimizu et al., also, does not teach or suggest “ $Z > y > L$ , . . . wherein Z is a total length intersecting the central axis of the multilayered molten resin mass, y is a length of umbrella part of the second resin,” as recited in claim 1.

For at least these reasons, claim 2 patentably distinguishes over Shimizu et al.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,  
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